IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 30888 of 2007(B)

PETITIONER:

P.C. THAHIR, PROPRIETOR,
KANHIRANDY TRADERS, S. BATTERY.

BY ADV. SRI.PREMJIT NAGENDRAN
SRI.P.RAGHUNATH

RESPONDENTS:
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1. AGRL. INCOME TAX &
COM. TAX OFFICER, S. BATTERY.

2. THE GENERAL MANAGER,
DIST. INDUSTRIES CENTRE, WAYANAD AT KALPETTA.

3. DEPUTY COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES, KOZHIKODE.

4. INSPECTING ASST.COMMISSIONER, WAYANAD.

BY GOVERNMENT PLEADER SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 30888 OF 2007 B
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Dated this the 18th October, 2007

J U D G M E N T

Following Ext. P1 order of exemption, the assessment in respect of 1999-2000 was completed as per Ext. P2. However, that was cancelled by Ext. P4 order of the 3rd respondent exercising powers under Section 35 of the KGST Act. It is thereafter that the re-assessment was completed as per Ext. P6. In Ext. P6 towards balance tax and surcharge due the liability of the petitioner has been quantified at Rs.8,81,233/- and the interest at Rs.12,77,788/-. Though the petitioner has filed an appeal against Ext. P6 before the appellate authority, petitioner has not moved any stay application. Now by Ext. P7 the amount due in terms of Ext. P6 is sought to be realised and hence this writ petition.

2. While the counsel for the writ petitioner submits that Ext. P4 and consequentially Ext. P6 arose out of a modification of Ext. P1 and that there is no delay on their side to be levied interest, I am not

finally deciding the matter since the appeal is pending before the appellate authority. It is for that authority to deal with the contentions and decide the issue. The only question that is relevant now is whether the respondents should be allowed to realise the amount by recourse to revenue recovery proceedings.

3. Now that the liability of the petitioner has been quantified in Ext. P6 the petitioner shall remit the full amount of tax as quantified therein. In so far as interest is concerned, there will be a stay of recovery of the interest portion contained in Ext. P6, on the petitioner remitting 50% thereof. On such deposit the appellate authority shall consider and dispose of the appeal as expeditiously as possible. The amount shall be remitted within four weeks from today.

ANTONY DOMINIC
JUDGE

jan/-